

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA  
Civil No. 16cv3630(DSD/HB)

Rarity Shireme Abdulla,  
Plaintiff,

v.

**ORDER**

Brian Marsden,  
Defendant.

This matter is before the court upon the application to proceed on appeal without prepayment of fees by plaintiff Rarity Shireme Abdulla. A litigant who seeks to be excused from paying the filing fee for an appeal may apply for IFP status under 28 U.S.C. § 1915. See also Fed. R. App. P. 24(a). To qualify for IFP status, the litigant must demonstrate that he cannot afford to pay the full filing fee. 28 U.S.C. § 1915(a)(1).

Abdulla's IFP application indicates that his monthly expenses exceed his wages. ECF No. 11, at 1-4, 6. As a result, the court finds that Abdulla is financially eligible for IFP status. Even if a litigant is found to be indigent, however, IFP status will be denied if the court finds that the litigant's appeal is not taken in "good faith." 28 U.S.C. § 1915(a)(3). Good faith in this context is judged by an objective standard and not by the subjective beliefs of the appellant. Coppedge v. United States, 369 U.S. 438, 444-45 (1962). To determine whether an appeal is taken in good faith, the court must decide whether the claims to be

decided on appeal are factually or legally frivolous. Id. at 445. An appeal is frivolous, and therefore cannot be taken in good faith, "where it lacks an arguable basis either in law or in fact." Neitzke v. Williams, 490 U.S. 319, 325 (1989).

Although the court remains fully satisfied that Abdulla's case was properly dismissed, his appeal is not frivolous, as that term has been defined by the Supreme Court. As a result, the appeal is considered to be taken in good faith for purposes of 28 U.S.C. § 1915(a)(3), and the IFP application will be granted.

Accordingly, based on the above, **IT IS HEREBY ORDERED** that Abdulla's application to appeal in forma pauperis [ECF No. 11] is granted.

Dated: January 24, 2017

s/David S. Doty  
David S. Doty, Judge  
United States District Court